SINGLE BEN

003

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition NO. /2005

PETITIONER : Bahadur Singh

Plaintiff

Aged about 55 years

S/o. Jagmohan Singh

Occupation-Service in (Police Department) R/o. Village Chhote Atarmuda, Tah. & Distt. Raigarh (C.G.)

P.R. No. 2246/05
Presented by Shri B.K. Dehariya
dated 24/6/05

VERSUS

RESPONDENTS :1. State of Chhattisgarh

Defendants

Through Collector, Raigarh (C.G.)

2. Manager, Grih Nirman Mandal
Branch office Boirdadar,
Raigarh (C.G.)

3. Assistant Deputy Director
Panchayat & Social service
Raigarh (C.G.)

Formal Parties

4. Munu Singh, aged about 60 Yrs.
S/o Jagmohan Singh

5. Sundar Singh aged about 45 yrs.
S/o Jagmohan Singh

6. Chhotelal aged about 40 yrs.
S/o Jagmohan Singh

7. Shishupal Singh, aged about 35 yrs.
S/o Dasharath Singh.
No. 4 to 7 are agriculturist
R/o village Chhote Atarmuda
Tahsil & Distt. Raigarh (C.G.)

CLERK to Ld. G. BILASPUR
24/6/05

4799/05
25/6/05

To,

The Hon'ble Chief justice
and his puisne judges
High court of chhattisgarh
Bilaspur (C.G.)

WRIT PETITION U/A 227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

036

मामला क्रमांक ....WP/2739/.... सन् 2005

.....विरुद्ध.....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	4.7.2005 Shri B.L. Deembra, counsel for the petitioner. Shri Parag Kotecha, Panel Lawyer for the State. By this writ petition under Article 227 of the Constitution of India the petitioner has questioned the legality, correctness and propriety of order dated 30.4.2005 passed by learned 1st Additional District Judge, Raigarh in M.C.A. No.15/2005 whereby dismissed the miscelleanous civil appeal of the petitioner and confirmed the order of learned 4th Civil Judge, Class-II, Raigarh whereby learned Civil Judge has rejected the application of the petitioner filed under Order 39 Rules 1 & 2 of the CPC. Brief facts leading to filing of this writ petition are that the petitioner herein filed a civil suit before learned 4th Civil Judge, Class-II, Raigarh for declaration & injunction that the petitioner is the owner of pond bearing Khasra No.48 area 2.81 acres & Khasra No.56 area 4.88 acres and entitled for that land. Further case of the petitioner is that the said pond is his ancestral property, he is in possession of the said pond and using the said pond without any interference and defendants are not entitled for possession or interference in the said pond. In the year 2002 the Collector, Raipur has given the said pond to the Housing Board for the purpose of construction of housing colony. Reply was filed by the defendants in which it was mentioned that the plaintiff is not entitled for possession of any land and the pond in question is not recorded in the name of plaintiff but it is a Government Nazul land and it is in their possession since 1998.	

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

037

आदेश पत्रक

मामला क्रमांक ....WP 2730/05 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

After hearing the parties learned court below dismissed the application of the petitioner herein for grant of temporary injunction on the ground that the petitioner has not been able to make out a prima-facie case and balance of convienence & irreparable loss are also not in his favour. Same question was before the Appellate Court and the Appellate Court also affirmed the finding of the court below.

I have heard the learned counsel for the parties.

Perusal of the impugned order shows that since 1950 the said pond was recorded as Government Nazul land and thereafter, it is in continuous possession of the Government. The possession of the said pond has already been given to the Housing Board on 17.3.1998 for the purpose of construction of housing colony and the petitioner herein filed the civil suit in the year 2004.

In view of the above order, the petitioner has not been able to make out a case for interference by this Court under Article 227 of the Constitution of India. There are concurrent findings of two courts below that the land in question is in possession of the Housing Board and it is recorded in the record as Government Nazul land since 1950.

Therefore, I do not find any substance in this petition, same is liable to be dismissed and it is, accordingly, dismissed at the admission stage itself.

Sd/-
L.C. Bhadoo
Judge

(पीछे देखिये)